

DATE: DECEMBER 30, 2019**TIME: 14:30:19****IN THE CIRCUIT COURT OF INDEPENDENCE COUNTY, ARKANSAS
DOMESTIC RELATIONS DIVISION****LUNDEN ROBERTS****PLAINTIFF****V.****CAUSE NO. 32DR-19-187-2****HUNTER BIDEN****DEFENDANT****MOTION TO STRIKE AND RESPONSE TO MOTION TO INTERVENE
WITH INCORPORATED BRIEF IN SUPPORT****TO THE HONORABLE JUDGE OF SAID COURT:**

NOW COMES Hunter Biden ("Defendant" herein), and files this Motion to Strike and Response to Motion to Intervene With Incorporated Brief, and would show the following:

A. Motion to Strike Pleading

Prior to responding to the Motion to Intervene, Defendant moves to strike the pleading as follows:

A-1. Plaintiff filed suit in this cause to establish paternity and for child support against Defendant.

A-2. The Motion to Intervene filed by D&A Investigations, Inc. is a scheme by a non-party simply to make scandalous allegations in the pending suit to gain media attention without any material or pertinent material.

A-3. Defendant moves the Court to strike the pleading of D&A Investigations, Inc. per Ark. R. Civ. P. 12(f). (Motion to Strike. Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by these rules, upon motion made by a party within 30 days after the service of the pleading upon him or upon the court's own initiative at any time, the court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent or scandalous matter.) *See Ark. R. Civ. P. 12(f).*

B. Response to Motion to Intervene

B-1. Intervention as a Matter of Right

B-1-a. Ark. R. Civ. P. 24(a) permits intervention as a matter of right in an action:

- (1) when a statute of this state confers an unconditional right to intervene; or
- (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

B-1-b. Arkansas courts have articulated three requirements that an applicant must meet in order to intervene as a matter of right: (1) that he has a recognized interest in the subject matter of the primary litigation; (2) that his interest might be impaired by the disposition of the suit; and (3) that his interest is not adequately represented by existing parties. *UHS of Arkansas, Inc. v. City of Sherwood*, 296 Ark. 97, 752 S.W.2d 36 (1988); *Pearson v. First Nat'l Bank of DeWitt*, 325 Ark. 127, 924 S.W.2d 460 (1996); *Billabong Prods., Inc. v. Orange City Bank*, 278 Ark. 206, 644 S.W.2d 594 (1983).

B-2. Permissive Intervention

B-2-a. Ark. R. Civ. P. 24(b) permits intervention upon timely application to intervene in an action:

- (1) when a statute of this state confers a conditional right to intervene; or
- (2) when an applicant's claim or defense and the main action have a question of law or fact in common. When a party to an action relies for ground of claim or defense upon any statute or executive order administered by a federal or state governmental officer or agency or upon any regulation, order, requirement or agreement issued

or made pursuant to the statute or executive order, the officer or agency upon timely application may be permitted to intervene in the action. In exercising its discretion, the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

B-2-b. Permissive intervention is a matter resting within the sound discretion of the trial court and will be reversed only for abuse of discretion. *Billabong Prods.* 644 S.W.2d at 595; *Hunter v. Runyan*, 2011 Ark. 43, at 18, 382 S.W.3d 643, 653. Intervention is defined as "a proceeding by which a person, not originally a party to an action, is permitted to and does become a party to the pending proceeding for the protection of some right or interest alleged by him to be affected by the proceeding." *Whaley v. Beckham*, 2016 Ark. 196, 492 S.W.3d 65, 70; citing *Gravett v. McGowan*, 318 Ark. 546, 549, 886 S.W.2d 606, 607 (1994). Therefore, courts have concluded that to intervene, a party must have a claim or defense that is related to some right or interest in the pending suit.

B-3. Procedure for Intervention

B-3-a. The procedure for intervention is provided in Ark. R. Civ. P.(c): Procedure. A person desiring to intervene shall serve a motion to intervene upon the parties as provided in Rule 5. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought. When the constitutionality of a statute of this state affecting the public interest is drawn into question in any action, the court may require that the Attorney General of this state be notified of such question.

B-3-b. In addition to its substantive requirements, Rule 24 imposes procedural demands on a potential intervenor. The rule requires that the application for intervention be timely; that the applicant file a motion to intervene stating the grounds therefor; and that the motion be

accompanied by a pleading setting forth the claim or defense for which intervention is sought. See Ark. R. Civ. P. 24(a) & (c); *Wartick v. United Servs. Auto. Ass'n*, 2017 Ark. App. 329, 525 S.W.3d 38 (2017 Ct. App.). The purpose of the pleading requirement is to inform the trial court of the right asserted by the would-be intervenor. *Lowell v. Lowell*, 55 Ark. App. 211, 934 S.W.2d 540 (1996). All litigants, including those who proceed *pro se*, must conform to the rules of procedure, or else demonstrate good cause for not doing so. *Arnold & Arnold v. Williams*, 315 Ark. 632, 870 S.W.2d 365 (1994), cert. denied, 130 L. Ed. 2d 400, 115 S. Ct. 489 (1994).

B-4. Argument

The proposed intervenor in this case has failed to even state a claim or defense for which it seeks intervention. The proposed intervenor has no interest in this cause that needs protecting to support intervention of right. The proposed intervenor's claims are immaterial, impertinent and scandalous allegations which do not even attempt to assert common questions of law or fact to the pending paternity suit to permit intervention. These unsubstantiated allegations by D&A Investigations, Inc. and Dominic Casey are simply another stab at the Defendant in the myriad of media attention seekers.

C. Specific Admissions/Denials

C-1. If response to Paragraph 1 of the Motion to Intervene is necessary, Defendant states that he is without sufficient knowledge to admit or deny the proposed intervenor's contact with Plaintiff's attorney and, therefore, denies same.

C-2. If response to Paragraph 2 of the Motion to Intervene is necessary, Defendant states that he is without sufficient knowledge to admit or deny the proposed intervenor's allegation of contact with the Court and, therefore, denies same.

C-3. If response to Paragraph 3 of the Motion to Intervene is necessary, Defendant states that he is without sufficient knowledge to admit or deny the proposed intervenor's reference to documents and, therefore, denies same.

C-4. If response to Paragraph 4 of the Motion to Intervene is necessary, Defendant states that he is without sufficient knowledge to admit or deny the proposed intervenor's reference to documents and, therefore, denies same.

C-5. If response to Paragraph 5 of the Motion to Intervene is necessary, Defendant denies the allegations contained therein and demands strict proof.

C-6. If response to Paragraph 6 of the Motion to Intervene is necessary, Defendant denies the allegations contained therein and demands strict proof.

C-7. If response to Paragraph 7 of the Motion to Intervene is necessary, Defendant denies the allegations contained therein and demands strict proof.

C-8. Defendant denies all allegations not admitted to herein and those asserted in the Prayer.

C-9. Defendant specifically reserves the right to amend his Response and allege all defenses, affirmative or otherwise as discovery is completed.

WHEREFORE, the Defendant prays that proposed intervenor's Motion to Intervene be denied and struck; for attorney's fees and costs; and or all other just and proper relief to which he may be entitled.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a true copy of the above was served on each attorney of record or party on the 30th day of December 2019, as follows:

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